

87-1713

Supreme Court, U.S.

FILED

APR 14 1988

JOSEPH F. SPANIOL, JR.
CLERK

NO. _____

=====

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1988

=====

ALBERT H. RUTLEDGE,

Petitioner,

vs.

MARMAC SYSTEMS ENGINEERING aka
MARMAK ENGINEERING, a California corporation,

Respondent.

=====

PETITION FOR CERTIORARI-DISCOVERY

4544



QUESTIONS PRESENTED FOR REVIEW

1. Did the United States Court of Appeals err when it used fraudulent documents in making its determination?
2. Did the United States Court of Appeals err when it determined that Albert N. Rutledge and Albert H. Rutledge are one and the same, when authenticated evidence clearly indicated that they are not.
3. Was the determination of the United States Court of Appeals and the United States District Court reached by Ex Parte means?
4. Did the United States Court of Appeals and the United States District Court deny Albert H. Rutledge any form of legal recourse first because regardless of procedural vehicle

employed, in absence of jurisdiction over person of defendant in action in personam, any judgment or order court might enter against it would be void and then by readjudication.

5. Did the decision of the United States Court of Appeals in the case cause an apparent conflict with other decisions of the court that were not addressed in the opinion.

6. Was Albert H. Rutledge denied his constitutional right of due process of law?

7. Did the United States Court of Appeals err when it added the name Albert H. Rutledge to Case No. 80-5057 (D.C. #CV 78-4987 ALS) when Albert H. Rutledge was not an original party named in that suit? The name of the Plaintiff in said lawsuit is Albert N. Rutledge.

8. Did the United States Court of Appeals overlook the nature of Due Process of Law pursuant to Rochin vs. California?

9. Did the United States Court of Appeals err and make the fact of Case No. 87-6117

(D.C.#86-4200 RMT PX) more cloudly than clear; when it used only the name "Rutledge." The first question that must be asked is which "Rutledge?"

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OF DISTRICT COURT RULING

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AND ORDER

AUTHORITIES

Cases:

Joel vs. Various John Does

499 F. Supp 791

Los Angeles Shipbuilding & Dry Dock Corporation

vs. Los Angeles County

27 CA2d 418, 71 P2d 282

Franklin vs. State

240 Ala 57, 197 SO 58-59

Application of Eisenberg

659 F2d 1107

Joseph Denunzio Fruit Co. vs. Crone

79 F Supp 117 vacated 89 F Supp 962

Reversed 188 F 2nd 569 Certiorari denied

72 S.Ct. 37, 342 U.S. 820, 966 Ed 620

McCall vs. Textile Industrial Institute

189 N.C. 775, 128 S.E. 349, 353

Mossler Acceptance Co. vs. Osborne

LaApp 14 SO.2d 492, 493

Jenkins vs. Pullman Co.

96 F2d 405,408 (9th Cir 1938)

Greeneer vs. Fillip

Tex Civ App 134, SW 2d. 730, 732

Miller vs. Scoble

152 FLA 328, 11 SO 2d 892, 894

Carpenter Intern Inc. vs. Kaiser Jamaica Corp

369 F Supp 1138

Williams vs. Bridgestone Tire Co. of America

84 FRD 19

Exparte McCordle

74 U.S. (7 Wall) 506, 19 L Ed 264 (1869)

Tafaya vs. U.S.Dept of Justice Law Enforcement

Assistance Administration

748 L 2d 1389 transferred to CLCt 256

Rochin vs. California

342 U.S. 165 L 2d 183, 72 Sct. 205 (1952)

Federal Rules

Civ Proc Rule 12(b)(2), 56(b), 28 USCA
28 USCA 636(b)(1), (11(B,C))

Constitutional Provisions

United States Constitution,
Article III, Section 2
Amendment V

OPINION BELOW

The United States Court of Appeals for the Ninth Circuit whose judgment is herein sought to be reviewed is reported at the District Court for the Central District, Los Angeles, and the Ninth Circuit San Francisco, and is reprinted in a separate Appendix to this Petition, Appendix A. The Opinion of the United States Court of Appeals is reported as follows:

"We dismiss Rutledge's appeal because it was not timely filed and affirm the award of attorneys' fees."

JURISDICTIONAL GROUNDS IN THIS COURT

The Fifth Amendment to the Constitution of the United States, states: "...nor be deprived of life, liberty or property without due process of law."

JURISDICTION

The judgment of the United States Court of Appeals for the Ninth Circuit was made and entered on January 25, 1988.

The jurisdiction of this court is invoked under the Fifth Amendment to the Constitution of the United States, which states "nor be deprived of life, liberty or property without due process of law."

STATEMENT OF THE CASE

A. NATURE OF THE CASE

This case came into being when MARMAC ENGINEERING did initiate its fraudulent actions in taking from the salary of ALBERT HENRY RUTLEDGE, a party not named in Case No. 78-4987 ALS (GX) to pay the judgment debt of ALBERT N. RUTLEDGE.

DATE	AMOUNT RECEIVED
11-13-80	\$ 741.27
05-20-81	1,070.81
12-11-81	987.36
07-26-82	1,134.80
04-19-83	1,186.68
01-27-84	<u>1,423.67</u>
TOTAL	\$6,543.67
June through October 1984	\$1,637.35
May through August 2, 1985	<u>1,559.60</u>
GRAND TOTAL	\$9,741.52

These actions listed above are the basis for the cause of action taken in Case No. 86-4200.

B. STATEMENT OF FACTS

On July 27, 1986, ALBERT HENRY RUTLEDGE, JR., hereafter to be known as ALBERT H. RUTLEDGE, filed a complaint for Damages and Equitable Relief for Losses Suffered in Connection with Fraudulent Misrepresentation, Breach of Contract; Malicious Financial Harassment, and Denial of Constitutional Right of Due Process of Law.

MARMAC ENGINEERING filed a Notice of Motion, and Motion to Dismiss Complaint; Memorandum of Law in Support thereof.

On August 8, 1986, ALBERT H. RUTLEDGE filed a Notice of Motion to Dismiss Complaint and Motion for Summary Judgment against MARMAC SYSTEMS ENGINEERING.

MARMAC ENGINEERING filed a Reponse to

Plaintiff ALBERT H. RUTLEDGE's Response to MARMAC's Motion to Dismiss pursuant to Rule 12 (B) (6).

On September 17, 1986, the Court granted MARMAC's Motion to Dismiss and Sanction, "It is ordered that the Motion by Defendant MARMAC to dismiss for failure to state a claim is granted without leave to amend and that request by Defendant MARMAC for award of its cost of having to defend herein is granted."

On November 19, 1986, ALBERT H. RUTLEDGE filed a Notice of Appeal and Notice to Prepare Reporter's and Clerk's Transcripts.

On November 25, 1986, ALBERT H. RUTLEDGE filed a Notice for Extension of Time to File Notice of Appeal.

On January 23, 1987, the Court denied Extension of Time to File Notice of Appeal.

On January 28, 1987, ALBERT H. RUTLEDGE filed a Request to Clarify the Court's Order

Denying Extension of Time to File Notice of Appeal.

On February 20, 1987, ALBERT H. RUTLEDGE filed a Motion for Relief from Judgment.

On March 5, 1987, ALBERT H. RUTLEDGE filed a Notice of Motion and Notice of Hearing on Motion for Relief from Judgment.

On March 24, 1987, ALBERT H. RUTLEDGE filed an Amendment to Amended Motion for Relief from Judgment.

On April 29, 1987, ALBERT H. RUTLEDGE filed an Amendment to Amended Motion for Relief from Judgment to show basis for such action.

On June 8, 1987, ALBERT H. RUTLEDGE filed a Notice of Motion and Notice of Hearing on Motion for Relief from Judgment.

ALBERT N. RUTLEDGE and ALBERT H. RUTLEDGE are not one and the same person.

MARMAC, on Page 9 of its Memorandum of Law, made unsupported claims that ALBERT N. RUTLEDGE

and ALBERT H. RUTLEDGE are the same person.

On January 28, 1987, ALBERT H. RUTLEDGE filed a Request to Clarify the Court's Order Denying Extension of Time to File Notice of Appeal. This document also contained two Exhibits, Exhibit 1 and Exhibit 2:

A. Exhibit 1 is a certified copy of the Complaint for Damages filed by ALBERT N. RUTLEDGE. This document is clear and convincing proof (Matter of Hunter, 17 BR 523) of the following facts:

1. That the name ALBERT N. RUTLEDGE is not a clerical error.
2. ALBERT N. RUTLEDGE signed this document.
3. This document is covered by the Authentic Act.
4. That it was the intent of ALBERT N. RUTLEDGE when he signed the document to do the following:

- a) Authenticate this document;
- b) Execute this document.

5. The signatures of ALBERT N.

RUTLEDGE and ALBERT H. RUTLEDGE
are in no way the same.

B. A seal is affixed to it by the National Archives and Records Administration certifying that the attached reproduction is a true and correct copy of the document in their custody.

Authentic Act see Exhibit No. B.

C. The ribbons on this document is and was unbroken as of the time it left my hands. Authentic Act.

D. Page 5 of this document bears all the signatures of the people who the Court has Persona Jurisdiction over.

E. This document also gave the Court subject matter jurisdiction.

F. Exhibit 2 which is a copy of a document

filed by MARMAC:

1. This document is not a true and correct copy of the one filed by ALBERT N. RUTLEDGE.
2. There are no signatures on this document. MARMAC tried to use this document to prove that the name ALBERT N. RUTLEDGE was a clerical error. Carpenter Intern Inc. vs. Kaiser Jamaica Corp. 369 F.Supp 1138.

The significance of Exhibit No. A is that it will prove the cardinal points of this case.

The first point to be considered is the name ALBERT N. RUTLEDGE a clerical error. Exhibit No. A is an "Authentic" document pursuant to Nov. 73, C.2; Cod 7, 52, 6, 4, 21 Dig 22,4; Mossler Acceptance Co. vs. Osborne, La

App 14 SO 2d 492, 493.

Authentic Act. In the civil law, an act which has been executed before a notary or public officer authorized to execute such functions, or which is testified by a public seal, or has been rendered public by the authority of a competent magistrate, or which is certified as being a copy of a public register.

ARGUMENT

Clerical error is defined as a mistake made by someone in copying or writing or typing. A mistake in an official document such as a judgment, can be corrected and no one can object to the correction. Los Angeles Shipbuilding & Dry Dock Corporation

vs. Los Angeles County, 27 CA 2d 418,
71 P.2d 282; Frankin vs. State, 240
Ala 57, 197 SO. 58,59.

A judgment is defined as a decision by a court or other tribunal based on evidence that has been presented. In most instances, the judgment is the final determination of all the issues in a case.

For a judgment to be valid, the court must have proper jurisdiction (authority) over the parties and the issues of the case.

A judgment must be in writing and state the names of the parties involved in the case and the date. It must show that the issues have been decided according to the evidence presented.

It cannot be based on

speculation, surmise, or suspicion.

If these definitions as stated by trial law are true and because our adversarial legal system does not tolerate exparte determinations on the merits of a civil case, pursuant to Application of Eisenberg, 654 F2d 1107, then all of the above becomes the keynote of my appeal as follows:

A. Case No. 80-5057

DC# CV 78-4987 ALS

1. Albert N. Rutledge -
Plaintiff/Appellant
2. Marmac Systems
Engineering -
Defendant/Appellee

The court has power over persons whom it has acquired personam jurisdiction; likewise, the court does not have power, or jurisdiction over

persons whom it has not acquired personam jurisdiction. Joel vs. various John Does, 499 F. Supp. 791.

As stated above, for the judgment to be valid it must be in writing and state the names of the parties involved in the case and the date.

Joel vs. various John Does, Supra.

Therefore, Albert H. Rutledge is not a party to this case. The court does not have personam jurisdiction over Albert H. Rutledge. Nor did the court try to obtain personam jurisdiction over Albert H. Rutledge.

Exhibit A is an authentic document pursuant to Mossler Acceptance Co. vs. Osborne, LA App 14 SO 2d 492, 493 and Nov. 73, C.2; Cod 7, 52 , 6, 4, 21 Dig 22, 4; on page 5 of said document Albert N. Rutledge

affixed his signature to this document.

Trial law defines a signature as "A signature is whatsoever mark, symbol or device one may choose to employ as representative of himself." Joseph Denunzio Fruit Co. vs. Crane, 79 F.Supp 117, vacated 89 F.Supp.962, Reversed 188 F.2nd 569, Certiorari denied 72 S.Ct.37, 342 U.S.820. 96 L.Ed. 620.

Trial law states, "The term 'signature' includes any memorandum, mark, or sign written or placed on any instrument or writing with intent to execute or authenticate such instrument or writing." Also, "to affix one's name to a writing or instrument for the purpose of authenticating it or to give it effect

as one's act." McCall vs. Textile Industrial Institute, 189 N.C. 775, 128 S.E. 349, 353.

In the civil law, an act which has been executed before a notary or public officer authorized to execute such functions, or which is testified by a public seal or has been rendered public by the authority of a competent. Mossler Acceptance Co. vs. Osborne, LA App. 14 SO.2d 492, 493.

The signature as affixed by Albert N. Rutledge was authenticated by a party present when Albert N. Rutledge affixed said signature. See Exhibit No. 1 filed January 28, 1987, and Exhibit 1 Section A filed July 8, 1986.

Therefore the name that is affixed on page 5 of Exhibit A is that

of the Plaintiff Albert N. Rutledge, and not a clerical error. This name as it appears on page 5 was authenticated by a notary public as being true, real, reliable and legal.

The cardinal point in Case No. CA 87-6117 (DC#86-4200 RMT PX) is that Albert N. Rutledge and Albert H. Rutledge are not one and the same.

The United States Court of Appeals for the Ninth Circuit stated in its decision:

"In his first suit, Rutledge's attorney incorrectly used the middle initial "N" instead of "H" in the caption of the original complaint and in other documentation. It is clear however that Albert N. Rutledge and Albert H. Rutledge are the same."

A typographical error in a

complaint is merely a formal and not a fatal error. Jenkins vs. Pullman Co. 96 F.2d 405, 408 (9th Cir 1938). The point made by the court clearly ignores the fact that Albert N. Rutledge signed this document, and said document was notarized.

Also, the point raised by the United States Court of Appeals that Albert N. Rutledge and Albert H. Rutledge are the same clearly voids the determinations in the following cases:

A. Case No. 80-5057

(DC#CV 78-4987 ALS)

1. Albert N. Rutledge -
Plaintiff/Appellant
2. Marmac Systems
Engineering -
Defendant/Appellee

B. Case No. 87-6117

(DC#86-4200 RMT PX)

1. Albert H. Rutledge -
Plaintiff/Appellant
2. Marmac Systems
Engineering aka
Marmac Engineering and
Does 1-10 inclusive
Defendant/Appellant

The Court does not have power, or jurisdiction over persons whom it has not acquired personam jurisdiction.

Joel vs. various John Does, Supra.

It also clearly points out the fact of "exparte:" Our adversarial legal system does not tolerate exparte determination on the merits of civil case, Application of Eisenberg, 654 F.2d 1107 as follows:

A. Adjudication is defined as

the determination of a controversy; decision of a court or administrative body, the giving or pronouncing of a judgment or decree in a cause. It implies a hearing by a court after notice of legal evidence on factual issue involved. Genzer vs. Fillip, Tex Civ App 134 SW 2d 730,732.

And contemplates that the claims of all the parties thereto have been considered and set to rest. Miller vs. Scoble, 152 Fla 328, 11 SO 2d 892, 894.

- B. Exhibit 6, pages 97 and 98 of
Petition for Certiorari
Discovery in the Supreme

Court of the United States dated October 1985, Marmac claims that said court adjudicated said document in said form.

A check of the records will show that no action was taken by the court. Therefore no adjudication. Therefore no readjudication.

C. The United States Court of Appeals and the United States District Court used fraudulent documents as follows to make its determinations:

1. Complaint for Damages and Equitable Relief in connection with Employment Practices,

-21-

Title VII of Civil Rights
Act of 1964, Case No.

78-4987 ALS(GX) Exhibit 1

- Page 17, 21

a. All of the following
items have been
removed:

i. The signatures

ii. Notary public
seal.

2. Petition for Certiorari -
Discovery Exhibit 7 page
97 and 98

a. None of the following
are on this document:

i. No case number

ii. No filing date

Carpenter Intern Inc. vs. Kaiser

Jamaica Corp. 369 F. Supp 1138

Had the Supreme Court of the

United States adjudicated Exhibit 7
its action would have been void for
the following reasons:

A. Statute of Limitation.

Tafaya vs. U.S. Dept of
Justice Law Enforcement
Assistance Admin., 748r 2nd
1389, transferred to
Cl.Ct.256. Where
jurisdiction is lacking the
judgment of the Federal Court
is void. Exparte McCordle 74
U.S. (7 Wall) 506 19 L Ed.
265 (1869)

B. Persona Jurisdiction.

Regardless of procedural
vehicle employed, in absence
of jurisdiction over person
of Defendant in action in
personam, any judgment or

order court might enter
against it would be void.

Federal Rules Civil

Procedure, Rule 12(b)(2),

56(b) 28 USCA, 28 USCA

636(b)(1), (1)(B,C) and

Williams vs. Bridgestone Tire
Co. of America, 84 FRD 19.

- C. For the same reasons cited in
A and B above, the judgment
handed down by the United
States Court of Appeals and
the United States District
Court are void.

The Nature of Due Process of Law

The nature of due proces is best explained
by Justice Frankfurter. "Due process of law
thus conceived is not to be derided as resort to
a revival of natural law. To believe that this
judicial exercise of judgment could be avoided

by freezing "due process of law" at some fixed state of time or thought is to suggest that the most important aspect of constitutional adjudication is a function for inatimate machine and not for judges, for whom the independence safeguarded by Article III of the Constitution was designed and who are presumably guided by established standards of judicial behavior."

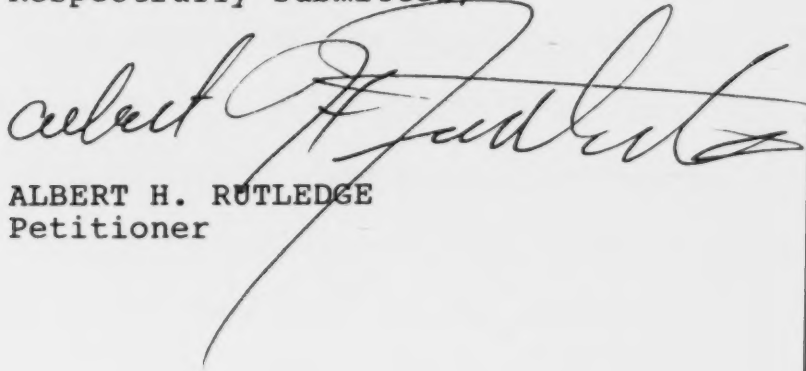
Rochin vs. California, 342 U.S. 165 L.Ed 183, 72 Sct. 205 (1952).

CONCLUSIONS

WHEREFORE, Petitioner prays that a Writ of Certiorari issue from this Honorable Court to review the judgment of the United States District Court in the matter of ALBERT H. RUTLEDGE vs. Marmac Engineering aka Marmac Engineering and Does 1 through 10, inclusive. In the event that the petition is granted,

Petitioner prays that the judgment of the court below be reversed; that the cause be remanded; and that the court below be directed to issue the Writ of Mandamus prayed for in this petition.

Respectfully submitted,

A large, stylized handwritten signature in dark ink, appearing to read 'Albert H. Rutledge', is written over the typed name and title.

ALBERT H. RUTLEDGE
Petitioner

JUDGMENT

UNITED STATES COURT OF APPEALS
For the Ninth Circuit

FILED
MAR 29, 1988
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
By _____, Deputy

ALBERT H. RUTLEDGE	)	NO. 87-6117
)	
Plaintiff-Appellant,	)	DC No. CV 86-4200 RMT
)	
vs.)	
)	
MARMAC SYSTEMS)	
ENGINEERING aka)	
Marmac Engineering,)	
)	
Defendant-Appellee.)	

APPEAL from the United States District
Court for the CENTRAL Distrit of CALIFORNIA.

THIS CAUSE came on to be heard on the
Transcript of the Record from the United States
District Court for the CENTRAL District of
CALIFORNIA and was duly submitted.

ON CONSIDERATION WHEREOF, It is now here
ordered and adjudged by this Court, that the

EXHBIT "A"

judgment of the said District Court in this Cause be, and hereby is.....

WE DISMISS Rutlege's appeal. We AFFIRM the lower court's award of attorneys' fees. We grant Marmac double costs and attorneys' fees for the appeal, the latter to be determined by affidavit which Marmac will file with the clerk of this court. See Ninth Cir. R.39-1.6: Oliver v Mercy Med. Center, Inc., 695 F.2d 379, 382 (9th Cir. 1982).

Dated: Sept. 16, 1986

LODGED

MAR 22 1988

CLERK U.S.DISTRICT COURT
CENTRAL DISTRICT
OF CALIFORNIA

A TRUE COPY

ATTEST MAR 17 1988

CATHY A. CATTERSON
Clerk of Court

by: /s/R. Caldwell
Deputy Clerk

Filed and entered January 25, 1988.

ENTERED
SEP. 17, 1986
CLERK, U.S.
DISTRICT COURT
CENTRAL DISTRICT
by _____

FILED
SEP 16, 1986
CLERK, U.S.
DISTRICT COURT
CENTRAL DISTRICT
by _____

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALBERT H. RUTLEDGE	)	NO. CV 86-4200-RMT
)	
Plaintiff	)	ORDER GRANTING
	)	MOTION TO DISMISS
VS.	)	AND SANCTIONS
)	
MARMAC SYSTEMS)	
ENGINEERING aka)	
MARMAC ENGINEERING,)	
a California)	
corporation and DOES	)	THIS CONSTITUTES NOTICE
1 through 10	)	OF ENTRY AS REQUIRED
	)	BY FRCP RULE 77CB
<u>Defendants)</u>)	

This matter having come before the court on the motion by defendant Marmac to dismiss pursuant to Rule 12 (b) (6), F.R. Civ. P., for failure to state a claim and for sanctions for the cost of having to defend herein, and this court having considered the pleadings and other documents filed herein,

APPENDIX "B"

IT IS ORDERED that the motion be defendant, Marmac to dismiss for failure to state a claim is granted without leave to amend and that the request by defendant Marmac for an award of its cost of having to defend herein is granted. Defendant shall by September 26, 1986, file a declaration itemizing such cost.

Dated: Sept. 16, 1986

/S/

ROBERT M. TAKASUGI
United States District Court

APPENDIX B

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

ALBERT N. RUTLEDGE	)	NO. CV 78-4987-ALS
)	
Plaintiff,	)	ORDER
)	
VS.)	
)	
MARMAC SYSTEMS)	
ENGINEERING,)	
a California)	
Corporation)	
)	
<u>Defendant,</u>)	

Defendant Marmac Systems Engineering has moved to assess attorneys' fees pursuant to this court's Summary Judgment and Order filed on December 5, 1979. The motion to assess attorneys' fees came on regularly for hearing on March 17, 1980, before the Honorable Albert Lee Stephens, Jr., United States District Judge, and was taken under advisement. Having heard oral argument of counsel, having reviewed all filed papers and documents and being fully advised,

APPENDIX "C"

the court rules as follows:

As this litigation progressed through discovery it appeared that plaintiff's claim was unreasonable and plaintiff was unable to develop evidence to the contrary although plaintiff continued to litigate. It is therefore an appropriate case for the allowance of attorneys' fees to the successful defendant.

In fixing the amount of such fees the court must exercise its discretion which must take into account certain equitable considerations including at what point the unreasonableness of the claim became apparent. In such circumstances, an award can not be computed with mathematical exactness. A difference between the amount charged to the defendant by its counsel and the amount which may be fixed by a court exercising its discretion should not be considered a criticism as to the amount charged by counsel to the client.

All circumstances taken into consideration

the court is of the opinion that an appropriate
award of attorney's fees in this case is the sum
of \$8,000.00.

IT IS SO ORDERED

United States District Judge

Dated: May 8, 1980

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

	FILED
ALBERT N. RUTLEDGE	) MAR 4, 1982
	) Clerk U.S. District
Plaintiff-Appellant,	) Court Central District
)
VS.	) NO. 80-5057
	) DC CV 78-4987
MARMAC SYSTEMS)
ENGINEERING, a)
California	) ENTERED
Corporation	) MAR 5 1982
	) Clerk of the U.S.
<u>Defendant-Appellee,</u>	) District Court

APPEAL from the United States District Court
for the CENTRAL District of CALIFORNIA.

THIS CAUSE came on to be heard on the
Transcript of the Record from the United States
District Court for the CENTRAL District of
CALIFORNIA.

ON CONSIDERATION WHEREOF, It is here ordered
and adjudged by this Court that the judgment of
the said District Court in this Cause be, and

hereby is affirmed.

LODGED

OCT 18 1981

Clerk U.S. District Court

Central District of California

by _____

X Docketed

A TRUE COPY

ATTEST 6 OCT 1981

CLERK OF COURT

BY _____

DEPUTY CLERK

000009

Filed and Entered
September 14, 1981

ROBERT S. SCHULMAN and
DERRICK FISHER,
ZOBRIST, GARNER & GARRETT
a Law Corporation
707 Wilshire Blvd.,
Suite 4100
Los Angeles, CA 90017
Telephone (213) 689-1400

FILED
DEC 5, 1986
CLERK, U.S.
DISTRICT COURT
CENTRAL DISTRICT

Attorneys for Defendant and Counter-
Claimant MARMAC SYSTEMS ENGINEERING

ENTERED
DEC 10 1979
CLERK, U.S. D.C.
CENTRAL DISTRICT

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALBERT N. RUTLEDGE	)	NO. 79-4987
)	
Plaintiff and	)	PROPOSED SUMMARY
Counter-Defendant)	)	JUDGMENT AND ORDER
)	
VS.)	
)	
MARMAC SYSTEMS)	
ENGINEERING,)	
a California)	
corporation,)	
)	
Defendant and)	
<u>Counter-Claimant</u>)	

The above entitled case came on regularly
for hearing on the 29th day of October, 1979, in
Courtroom 8 of the above-entitled Court before

the Honorable Albert Lee Stephens, upon the motion of the defendant and counter-claimant, MARMAC SYSTEMS ENGINEERING, for summary judgment pursuant to Fed.R.Civ.P. 56(b) with respect to plaintiff's complaint.

The Court has considered the pleadings filed in this action, the memoranda of points and authorities and the depositions of ALBERT N. RUTLEDGE and James E. Thornbury, Sr. and the affidavits submitted in support of and in opposition to the motion,, and having found that there is no genuine issue as to any material fact and having concluded that MARMAC SYSTEMS ENGINEERING is entitled to judgment on plaintiff's complaint as a matter of law,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Defendant and counter-claimant, MARMAC SYSTEMS ENGINEERING'S motion for summary judgment be, and the same hereby is, granted; and,

2. Defendant and counter-claimant MARMAC SYSTEMS ENGINEERING shall recover from plaintiff and counter-defendant ALBERT N. RUTLEDGE the costs and disbursements of this action, including reasonable attorney's fees, to be fixed in the usual course and included in this judgment.

DATED: Nov. 30, 1979.

/s/

ALBERT LEE STEPHENS, JR., JUDGE
UNITED STATES DISTRICT COURT

